

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

~~JUDGE KOEHL~~

08 CV 00328

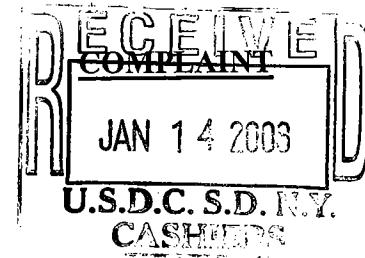
VIRGIN ENTERPRISES LIMITED,

Plaintiff,

- against -

ENOM, INC., VIRGINAIRLINES.COM, DOMAINS  
VENTURES, WWWVIRGINATLANTIC.COM,  
CARLO HAKOPIAN, VIRGINDIRECT.COM,  
GEOVICS INFOTECH NIG.LTD,  
VIRGINBEAUTYLTD.BIZ, WHOIS PRIVACY  
PROTECTION SERVICE, INC.,  
VIRGINHEALTHCARE.COM, VIRGIN HEALTH  
CORP., and VIRGINHEALTH.NET,

Defendants.



Plaintiff Virgin Enterprises Limited, by its attorneys, Fried, Frank, Harris, Shriver & Jacobson LLP, for its complaint in this action alleges:

**PARTIES AND JURISDICTION**

1. Plaintiff Virgin Enterprises Limited ("VEL") is a corporation organized and existing under the laws of England and Wales, having its principal place of business located at 120 Campden Hill Road, London W8 7AR, England.

2. On information and belief, defendant eNom, Inc. ("eNom") is the registrant of the domain name VIRGINAIRLINES.COM, having an address at 2002 156<sup>th</sup> Avenue, N.E., Bellevue, Washington 98007.

3. On information and belief, defendant Domains Ventures is the registrant of the domain name WWWVIRGINATLANTIC.COM, having an address at 136 Xiaoxue Road, Xiamen, Fujian 361001, China.

4. On information and belief, defendant Carlo Hakopian (“Hakopian”) is the registrant of the domain name VIRGININDIRECT.COM, having an address at 1 S.M.A.T., London W14 8NX, England.

5. On information and belief, defendant Geovics Infotech Nig. Ltd. (“Geovics”) is the registrant of the domain name VIRGINBEAUTYLTD.BIZ, having an address at 36 Oritsheterret, Ikeja, Lagos 2341, Nigeria.

6. On information and belief, defendant Whois Privacy Protection Service, Inc. (“Whois”) is the registrant of the domain name VIRGINHEALTHCARE.COM, having an address at 14150 N.E. 20<sup>th</sup> Street, Bellevue, Washington 98007.

7. On information and belief, defendant Virgin Health Corp. (“VHC”) is the registrant of the domain name VIRGINHEALTH.NET, having an address at 7300 Corporate Center Drive, Miami, Florida 33126.

8. On information and belief, defendants VIRGINAIRLINES.COM, WWWVIRGINATLANTIC.COM , VIRGININDIRECT.COM, VIRGINBEAUTYLTD.BIZ, VIRGINHEALTHCORP.COM, and VIRGINHEALTH.NET are Internet domain names having a situs in New York, New York.

9. This action arises under the Trademark Act of 1946, 15 U.S.C. §§ 1051 *et seq.*, the New York General Business Law § 360-1, and the common law of the State of New York.

10. Jurisdiction of this Court is proper under 28 U.S.C. §§ 1331, 1338(a) and (b), 15 U.S.C. §§ 1121 and 1125(d), and 28 U.S.C. § 1367.

#### **FIRST CAUSE OF ACTION**

11. Plaintiff and related companies (collectively, the “Virgin Group”) conduct numerous worldwide businesses under the trade name, trademark, and service mark VIRGIN. A description

of Virgin Group company operations appears at the Internet web site associated with the domain name [www.virgin.com](http://www.virgin.com). In the year ending December 31, 1999, Virgin Group companies employed more than 25,000 staff in twenty-six (26) countries and had worldwide sales revenues in excess of U.S. \$5 billion.

12. VEL's licensee, Virgin Atlantic Airways Limited ("VAA"), has provided VIRGIN-branded air travel, air freight, courier, cargo, and related services in United States commerce continuously since 1984. VAA currently provides VIRGIN and VIRGIN ATLANTIC travel-related services utilizing a fleet of Boeing 747 and Airbus A340 aircraft providing daily departures to and from New York (JFK) and New Jersey (Newark), Boston, Washington (IAD), Orlando, Miami, Los Angeles, Las Vegas, and San Francisco. A description of VAA operations appears at the Internet web site associated with the domain name [www.virgin-atlantic.com](http://www.virgin-atlantic.com).

13. VEL's licensee, Virgin America Inc. ("VAI"), has provided VIRGIN-branded air travel and related services in U.S. commerce continuously since 2007. VAI currently provides VIRGIN and VIRGIN AMERICA travel-related services using a fleet of Boeing 737 aircraft providing daily departures to and from New York (JFK), Washington (IAD), Seattle, San Diego, Los Angeles, San Francisco, and Las Vegas. A description of VAI operations appears at the web site associated with the domain name [www.virginamerica.com](http://www.virginamerica.com).

14. VEL's licensee, Virgin Limousines (California) LLC ("VLC"), has offered VIRGIN-branded car and limousine services in U.S. commerce continuously since 1996. VIRGIN LIMO car and transportation services, including personal driving tours, are used annually by tens of thousands of passengers. A description of VLC operations appears at the web site associated with the domain name [www.virgin.com/subsites/virginlimousines](http://www.virgin.com/subsites/virginlimousines).

15. VEL's licensee, Virgin Entertainment Group ("VEG"), has provided VIRGIN-branded retail store services in United States commerce continuously since 1992. VEG currently operates a chain of VIRGIN and VIRGIN MEGASTORE retail stores in major cities of the United States, including locations in Arizona, California, Colorado, Florida, New York, and Texas. A description of VEG operations appears at the Internet web site associated with the domain name [www.virginmegamagazine.com](http://www.virginmegamagazine.com).

16. VEL's licensee, Virgin Mobile USA, LLC ("VMU"), has offered VIRGIN-branded wireless telecommunications products and services in United States commerce continuously since 2002. VMU currently provides VIRGIN and VIRGIN MOBILE wireless services to more than three million subscribers located in more than 4,000 cities and communities located throughout the United States. A description of VMU operations appears at the Internet web site associated with the domain name [www.virginmobileusa.com](http://www.virginmobileusa.com).

17. VEL's licensee, Virgin Books Limited ("VBL"), has provided VIRGIN-branded online shopping services and VIRGIN-branded books and guides in U.S. commerce continuously since 2001. A description of VBL operations appears at the web site associated with the domain name [www.virginbooksusa.com](http://www.virginbooksusa.com).

18. VEL's licensee, Virgin Media Inc. ("VMI"), has provided VIRGIN-branded online information services in United States commerce continuously since 1996. A description of VMI operations appears at the web site associated with the domain name [www.virginmedia.com](http://www.virginmedia.com).

19. VEL's licensee, Virgin Vines, has provided VIRGIN-branded wine products in United States commerce continuously since 2005. A description of Virgin Vines operations appears at the web site associated with the domain name [www.virginvines.com](http://www.virginvines.com).

20. VEL's licensee, Virgin.com Ltd., has provided VIRGIN-branded skill games in United States commerce continuously since 2005. A description of Virgin Games operations appears at the web site associated with the domain name [www.virgingames.com/](http://www.virgingames.com/)

21. VEL's licensee, Virgin Comics LLC, has provided VIRGIN-branded comic books in United States commerce continuously since 2006. A description of Virgin Comics operations appears at the web site associated with the domain name [www.virgincomics.com/](http://www.virgincomics.com/).

22. VEL's licensee, Virgin Money Ltd., has provided VIRGIN-branded credit card services in United States commerce continuously since 2002. A description of the VIRGIN credit card appears at the web site associated with the domain name [www.virginmoney.com](http://www.virginmoney.com).

23. VEL's licensee, Virgin Money USA, Inc., has provided VIRGIN-branded financial services in United States commerce continuously since 2007. A description of Virgin Money operations appears at the web site associated with the domain name [www.virginmoneyus.com](http://www.virginmoneyus.com).

24. VEL's licensee, Virgin Healthmiles, Inc., has provided VIRGIN-branded health-related services in United States commerce continuously since 2005. A description of Virgin Healthmiles operations appears at the web site associated with the domain name [www.virginhealthmiles.com/](http://www.virginhealthmiles.com/).

25. VEL's licensee, Virgin Health Bank, has provided VIRGIN-branded umbilical cord blood storage services in United States commerce since 2007. A description of Virgin Health Bank operations appears at the website associated with the domain name [www.virginhealthbank.com](http://www.virginhealthbank.com).

26. VEL licensees offer diverse VIRGIN-branded merchandise and online services in United States commerce including VIRGIN T-shirts, VIRGIN sweatshirts, VIRGIN hats, VIRGIN soft drinks, VIRGIN vodka, VIRGIN cosmetics, VIRGIN toys, VIRGIN bags, VIRGIN mobile phones and accessories, VIRGIN audio CD's, and other VIRGIN-branded goods and services.

27. VEL is the owner of numerous United States registrations of trademarks and service marks comprising the word VIRGIN, including:

- (a) U.S. Reg. No. 1,039,574 for VIRGIN & Design as applied to "sound records in the form of discs and tapes and cassettes for use therewith";
- (b) U.S. Reg. No. 1,413,664 for VIRGIN as applied to "air travel services";
- (c) U.S. Reg. No. 1,469,618 for VIRGIN as applied to "pre-recorded audio and/or video tapes, cassettes and cartridges; pre-recorded audio and video discs, phonograph records";
- (d) U.S. Reg. No. 1,517,801 for VIRGIN (stylized) as applied to "pre-recorded audio and/or video tapes, cassettes and cartridges; pre-recorded audio and video discs, phonograph records; photographic and cinematographic films";
- (e) U.S. Reg. No. 1,591,952 for VIRGIN (stylized) as applied to "printed sheet music; fictional and non-fictional books, biography and autobiography books, periodicals, namely, paperback books all dealing with music, films and entertainment; paper for packaging, paper cases; writing instruments, namely, pens, pencils, ball point pens, stationery and office supplies, namely, writing paper, playing cards" and "articles of outer clothing, namely, shirts, t-shirts, sweat shirts, jackets, hats, clothing caps, clothing belts";
- (f) U.S. Reg. No. 1,597,386 for VIRGIN as applied to "printed sheet music; mounted photographs; posters, fictional and non-fictional books, biography and autobiography books, periodicals, namely, journals, paperback books all dealing with music, films and entertainment; paper for packaging, paper cases; stationery and office supplies, signs of paper or cardboard, playing cards" and "articles of outer clothing, namely, shirts, t-shirts, sweat shirts, jackets, hats, clothing caps, clothing belts";
- (g) U.S. Reg. No. 1,851,817 for VIRGIN as applied to "transportation of goods and passengers by road and air, freight transportation services; travel agency services"; and "retail store services in the fields of cameras, records, audio and video tapes, computers and electronic apparatus, and watches, sheet music, books and photography, handbags, purses, luggage and leather goods, clothing, games, video game machines and video game cartridges";
- (h) U.S. Reg. No. 1,852,776 for VIRGIN (stylized) as applied to, among other things, "bars; rental of food service equipment; namely, vending machines; portrait and aerial photography; typesetting and printing services; and retail store services in the fields of cameras, records, audio and video tapes, computers and electronic apparatus, and watches, sheet music, books and photography, handbags, purses, luggage and leather goods, clothing, games, video game machines and video game cartridges";

- (i) U.S. Reg. No. 1,863,353 for VIRGIN MEGASTORE as applied to “retail department store services”;
- (j) U.S. Reg. No. 2,151,589 for VIRGIN VODKA as applied to “vodka”;
- (k) U.S. Reg. No. 2,237,092 for VIRGIN VACATIONS as applied to “arranging the transport of passengers by air and road, arranging and conducting travel tours, travel agency services, namely, making reservations and bookings for transportation, and transportation reservation services; resort hotel and hotel reservation; travel agency services, namely, making reservations and bookings for temporary lodging”;
- (l) U.S. Reg. No. 2,507,654 for THE VIRGIN TRADING COMPANY as applied to “non-alcoholic beverages, namely, soft drinks, and syrups and preparations for making soft drinks; and spirits”;
- (m) U.S. Reg. No. 2,586,162 for VIRGIN as applied to “articles of luggage, namely, suitcases; bags; namely, back packs, rucksacks, school bags, school satchels, traveling bags, sports bags, all purpose sports bags for campers and climbers, textile shopping bags; wallets; umbrellas and parasols”;
- (n) U.S. Reg. No. 2,600,080 for VIRGIN (stylized) as applied to “non-alcoholic beverages, namely, soft drinks”;
- (o) U.S. Reg. No. 2,622,510 for VIRGIN (stylized) as applied to “underwriting life, health and general insurance; funds investment; investment of funds for others; open and close-ended funds investment; financial analysis and consultation in the field of securities, personal equity and tax advantaged savings”;
- (p) U.S. Reg. No. 2,625,455 for VIRGIN as applied to “computerized communication services, namely, electronic mail services, and providing networks for the purpose of transmission and reception of electronic mail, computer generated music, news and other data and information; and broadcasting services by radio and over a global computer network of a wide variety of programs, namely, current events, economics, politics, sports, entertainment, the arts and business” and “providing an on-line shopping mall via a global computer network; providing business information via a global computer network”;
- (q) U.S. Reg. No. 2,639,079 for VIRGIN HOLIDAYS as applied to “transportation of passengers and goods by road, rail and air; arranging of package holidays; arranging and organizing tours; arranging visits to places of interest; tourist office services; travel agency services, namely, making reservations and bookings for transportation; transportation reservation services; travel agency services, namely, making reservations and bookings for temporary lodging”;

- (r) U.S. Reg. No. 2,643,644 for VIRGIN VIE (stylized) as applied to “perfumes; eau-de-cologne; non-medicated toilet preparations, namely, lotions and moisturizers; non-medicated preparations for the care of the skin, hands, scalp and body, namely, moisturizers, lotions, creams and gels; non-medicated skin cleansing preparations, namely, lotions, creams and gels; creams and lotions for the skin; nail varnishes”;
- (s) U.S. Reg. No. 2,675,758 for VIRGIN as applied to “articles of luggage, namely, garment bags; trunks; bags, namely, beach bags, hunters’ game bags, handbags; mesh shopping bags and leather or leather imitation shopping bags, sling bags for carrying infants; briefcases; purses; walking sticks” and “gloves”;
- (t) U.S. Reg. No. 2,689,097 for VIRGIN (stylized) as applied to “mobile telephones, telephones; modems; batteries; battery chargers, cigarette lighter adapters; dashboard mounts; hands-free headsets; carrying cases; belt clips” and “telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the Internet; personal communications services; pager services; electronic mail services; transmission or broadcast of news and information for others via telephone including the Internet”;
- (u) U.S. Reg. No. 2,689,098 for VIRGIN as applied to “mobile telephones; telephones; modems; batteries; battery chargers; cigarette lighter adapters; dashboard mounts; hands-free headsets; carrying cases; belt clips” and “telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; pager services; electronic mail services; transmission or broadcast of news and information for others via telephone, including the Internet”;
- (v) U.S. Reg. No. 2,709,578 for VIRGIN (stylized) as applied to, among other things, “sound records of music in the form of discs and tapes and cassettes; pre-recorded audio or video tapes, cassettes and cartridges featuring music; pre-recorded audio and video discs, phonograph records featuring music; data processors and displays; graphical interface to aid the delivery of interactive products and services by cable or wireless transmission; parts for the aforesaid goods; computer game software; computer software for educational computer games, for calculators, for global computer network access and for music products; computer hardware”; “mineral waters, aerated waters, and flavored waters”; “fruit flavored drinks”; and “vodka”;
- (w) U.S. Reg. No. 2,717,644 for VIRGIN as applied to “soft drinks”;

- (x) U.S. Reg. No. 2,770,775 for VIRGIN MOBILE as applied to, among other things, "mobile telephones, telephones and modems, and accessories therefore, namely, batteries; battery chargers; cigarette lighter adapters; hands-free headsets; carrying cases and belt clips" and "telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; pager services; electronic mail services; transmission or broadcast of news and information for others via telephone, including the Internet";
- (y) U.S. Reg. No. 2,770,776 for VIRGIN MOBILE (stylized) as applied to, among other things, "mobile telephones, telephones and modems, and accessories therefore, namely, batteries; battery chargers; cigarette lighter adapters; hands-free headsets; carrying cases and belt clips" and "telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; pager services; electronic mail services; transmission or broadcast of news and information for others via telephone, including the Internet";
- (z) U.S. Reg. No. 2,798,130 for VIRGIN (stylized) as applied to "playing cards, writing instruments, namely, pens, pencils and ball point pens"; "luggage"; "leisurewear, namely, fleece tops and shirts; articles of outer clothing, namely T-shirts, sweat shirts, jackets, hats, clothing caps"; "sporting articles, namely, golf tees"; "preparing advertising, promotions, and public relations materials for others; demonstration of the goods of others and the promotion thereof; and distribution and dissemination of advertising, promotional materials and sample materials of others"; "electronic transmission and display of information for business or domestic purposes from a computer stored data bank"; and "retail store services in the fields of records, audio and video tapes, computers and electronic apparatus and watches, books, luggage and leather goods, clothing, games, video game cartridges, and cafes";
- (aa) U.S. Reg. No. 2,808,270 for VIRGIN ATLANTIC as applied to "transportation of and arranging transportation of goods and passengers by road and air; freight transportation services by air; transportation of human beings by means of land vehicles; chauffeur services; travel agency services, namely, making reservations and bookings for transportation; arranging and/or conducting travel tours; operation of aircraft for others";

- (bb) U.S. Reg. No. 2,818,572 for VIRGIN VIE (stylized) as applied to "soaps; shampoos; toilet waters; essential oils for personal use; shaving preparations; after-shave lotions; shaving foams; non-medicated toilet preparations, namely, soaps, shampoos, conditioners, non-medicated bath salts and bath oils; anti-perspirants, deodorants for use on the person; depilatories; dentifrices; mouthwashes; cosmetics, namely, foundation creams and lotions, face powders, blusher, lipsticks, lip gloss, and eye make-up; sun tanning and sun screening preparations; non-medicated preparations for the care of the skins hands, scalp and body, namely, toners, exfoliators, scrubs, soaps, nail care preparations namely, shampoos, conditioners, lotions, styling gels, mousse, oils, sprays, hair coloring and decolorant preparations; dyes for the hair and permanent waving and curling preparations; non-medicated skin cleansing preparations namely, cleansers, exfoliators, scrubs, soaps and toners; talcum powders; nail varnish removers; nail care preparations; artificial nails and adhesives therefor; glues, adhesives, acrylic, and silk and linen wraps for the repair of artificial nails; artificial eyelashes and adhesives therefore";
- (cc) U.S. Reg. No. 2,870,028 for VIRGIN XTRAS as applied to "mobile telephones; computer software downloadable from the Internet for transmission, reception and storage of voice, data, images, e-mail and digital information; Telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; electronic mail services; transmission or broadcast of news and information for others via telephone, including the internet";
- (dd) U.S. Reg. No. 3,009,266 for VIRGIN (stylized) as applied to "operation of leisure centers, namely, providing cosmetic and body care services";
- (ee) U.S. Reg. No. 3,100,295 for VIRGIN XL as applied to "mobile telephones; computer software downloadable from the Internet for transmission, reception and storage of voice, data, images, e-mail and digital information; Telecommunications services, namely, transmission of voice, data, images, audio, video, and information via telephone or the internet; personal communications services; electronic mail services; transmission or broadcast of news and information for others via telephone, including the internet";
- (ff) U.S. Reg. No. 3,174,388 for VIRGIN as applied to "soaps; shampoos; non-medicated toilet preparations, namely, soaps, shampoos, lotions and moisturizers; antiperspirants; deodorants for use on a person; cosmetics namely, foundation creams and lotions; non-medicated preparations for the care of the skin, hands, scalp and body, namely, moisturizers, lotions, creams, soaps, gels, hair care preparations, namely, shampoos, non-medicated skin cleansing preparations, namely, cleansers, lotions, creams, soaps; creams and lotions for the skin";
- (gg) U.S. Reg. No. 3,188,282 for VIRGIN as applied to "vodka and wine";
- (hh) U.S. Reg. No. 3,209,714 for VIRGIN (stylized) as applied to "entertainment service providing online computer games";

- (ii) U.S. Reg. No. 3,209,716 for VIRGIN as applied to "entertainment services, namely online computer games";
- (jj) U.S. Reg. No. 3,230,095 for VIRGIN (stylized) as applied to "organizing cultural activities and events; operation of leisure centers, namely, providing library and Internet access facilities";
- (kk) U.S. Reg. No. 3,245,593 for VIRGIN (stylized) as applied to "alcoholic beverages, namely, vodka and wine";
- (ll) U.S. Reg. No. 3,298,420 for VIRGIN as applied to "business incentive services, namely, offering plans to employers including motivational schemes, gift certificates and other rewards for employees, management of incentive programs, events and schemes for others; and debit card services"; and
- (mm) U.S. Reg. No. 3,298,421 for VIRGIN (stylized) as applied to "business incentive services, namely, offering plans to employers including motivational schemes, gift certificates and other rewards for employees, management of incentive programs, events and schemes for others; and debit card services".

28. By reason of more than thirty (30) years of continuous and substantially exclusive use, as well as Virgin Group companies' expenditure of tens of millions of dollars in advertising and promotion, VEL's VIRGIN marks have come to be famous and to symbolize extensive goodwill identifying Virgin Group companies and their founder, Sir Richard C.N. Branson. Interbrand in 1997 identified VIRGIN as one of The World's Top 100 Brands, ranking it in a tie with CANON, just below KLEENEX.

29. Commencing at a time currently unknown to VEL, but long after VEL commenced use of VIRGIN to identify diverse businesses, products, and services offered in the United States commerce, defendant eNom adopted and commenced use of VIRGINAIRLINES.COM as a purported designation for travel-related services rendered in the United States commerce.

30. Commencing at a time currently unknown to VEL, but long after VEL commenced use of VIRGIN to identify diverse businesses, products, and services offered in the United States commerce, defendant Domains Ventures adopted and commenced use of

WWWVIRGINATLANTIC.COM as a purported designation for travel-related services rendered in the United States commerce.

31. Commencing at a time currently unknown to VEL, but long after VEL commenced use of VIRGIN to identify diverse businesses, products, and services offered in the United States commerce, defendant Hakopian adopted and commenced use of VIRGINDIRECT.COM as a purported designation for financial and travel-related services rendered in the United States commerce.

32. Commencing at a time currently unknown to VEL, but long after VEL commenced use of VIRGIN to identify diverse businesses, products, and services offered in the United States commerce, defendant Geovics adopted and commenced use of VIRGINBEAUTYLTD.BIZ as a purported designation for beauty care products sold or transported in the United States commerce.

33. Commencing at a time currently unknown to VEL, but long after VEL commenced use of VIRGIN to identify diverse businesses, products, and services offered in the United States commerce, defendant Whois adopted and commenced use of VIRGINHEALTHCARE.COM as a purported designation for healthcare-related services rendered in the United States commerce.

34. Commencing at a time currently unknown to VEL, but long after VEL commenced use of VIRGIN to identify diverse businesses, products, and services offered in the United States commerce, defendant VHC adopted and commenced use of VIRGINHEALTH.COM as a purported designation for healthcare-related services rendered in the United States commerce.

35. The conduct of defendants is likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of defendants with VEL, or as to the origin, sponsorship, or approval by VEL of defendants' goods, services, or commercial activities.

36. The conduct of defendants threatens VEL with irreparable harm to its reputation and goodwill in New York and elsewhere.

37. Defendants are liable to VEL for registered trademark and service mark infringement in violation of 15 U.S.C. § 1114(1).

**SECOND CAUSE OF ACTION**

38. Paragraphs 1-37, above, are realleged and incorporated by reference as if set forth in full.

39. Defendants are liable to VEL for violation of 15 U.S.C. § 1125(a).

**THIRD CAUSE OF ACTION**

40. Paragraphs 1-39, above, are realleged and incorporated by reference as if set forth in full.

41. VEL's VIRGIN mark was famous prior to defendants' adoption and use in United States commerce of VIRGINAIRLINES.COM, WWWVIRGINATLANTIC.COM, VIRGINDIRECT.COM, VIRGINBEAUTYLTD.BIZ, VIRGINHEALTHCARE.COM, and VIRGINHEALTH.NET.

42. The conduct of defendants is likely to injure VEL's business reputation and dilute the distinctive quality of VEL's famous VIRGIN name and mark.

43. Defendants are liable to VEL for dilution under 15 U.S.C. § 1125(c).

**FOURTH CAUSE OF ACTION**

44. Paragraphs 1-43, above, are realleged and incorporated by reference as if set forth in full.

45. Defendants are liable to VEL for dilution under New York General Business Law § 360-l.

**FIFTH CAUSE OF ACTION**

46. Paragraphs 1-45, above, are realleged and incorporated by reference as if set forth in full.

47. The Internet domain names VIRGINAIRLINES.COM, WWWVIRGINATLANTIC.COM, VIRGINDIRECT.COM, VIRGINBEAUTYLTD.BIZ, VIRGINHEALTHCARE.COM, and VIRGINHEALTH.NET are confusingly similar to or dilutive of VEL's VIRGIN and VIRGIN-formative marks.

48. On information and belief, defendants registered or have used the Internet domain names VIRGINAIRLINES.COM, WWWVIRGINATLANTIC.COM, VIRGINDIRECT.COM, VIRGINBEAUTYLTD.BIZ, VIRGINHEALTHCARE.COM, and VIRGINHEALTH.NET with bad faith intent to profit from VEL's VIRGIN or VIRGIN-formative marks.

49. Defendants are liable to VEL for violation of 15 U.S.C. § 1125(d).

**SIXTH CAUSE OF ACTION**

50. Paragraphs 1-49, above, are realleged and incorporated by reference as if set forth in full.

51. Defendants are liable to VEL for unfair competition and misappropriation under New York law.

WHEREFORE, Plaintiff VEL prays that the Court:

- (i) declare, adjudge, and decree that defendants are liable to VEL for registered trademark and service mark infringement under 15 U.S.C. § 1114(1);
- (ii) declare, adjudge, and decree that defendants are liable to VEL for violation of 15 U.S.C. § 1125(a);

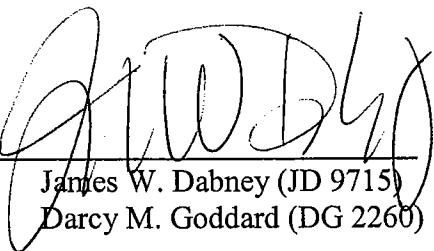
- (iii) declare, adjudge, and decree that defendants are liable to VEL for dilution under 15 U.S.C. § 1125(c);
- (iv) declare, adjudge, and decree that defendants are liable to VEL for dilution under N.Y. Gen. Bus. Law § 360-1;
- (v) declare, adjudge, and decree that defendants are liable to VEL for cyberpiracy in violation of 15 U.S.C. § 1125(d);
- (vi) declare, adjudge, and decree that defendants liable to VEL for unfair competition and misappropriation under New York common law;
- (vii) grant preliminary and permanent injunctions restraining defendants from engaging in any further acts constituting trademark or service mark infringement, trade name infringement, cyberpiracy, unfair competition, or misappropriation;
- (viii) order defendant eNom, and any person acting in concert or participation with defendant eNom, to transfer to VEL the domain name VIRGINAIRLINES.COM;
- (ix) order defendant Domains Ventures, and any person acting in concert or participation with defendant Domains Ventures, to transfer to VEL the domain name WWWVIRGINATLANTIC.COM;
- (x) order defendant Hakopian, and any person acting in concert or participation with defendant Hakopian, to transfer to VEL the domain name VIRGINDIRECT.COM;
- (xi) order defendant Geovics, and any persons acting in concert or participation with defendant Geovics, to transfer to VEL the domain name VIRGINBEAUTYLTD.BIZ;
- (xii) order defendant Whois, and any persons acting in concert or participation with defendant Whois, to transfer to VEL the domain name VIGINHEALTHCARE.COM;
- (xiii) order defendant VHC, and any persons acting in concert or participation with defendant VHC, to transfer to VEL the domain name VIGINHEALTH.NET;
- (xiv) order that the domain names VIRGINAIRLINES.COM, WWWVIRGINATLANTIC.COM, VIRGINDIRECT.COM, VIRGINBEAUTYLTD.BIZ, VIRGINHEALTHCARE.COM, and VIRGINHEALTH.NET, be forfeited, canceled, deleted, or transferred to a registrar of VEL's choosing by the registries of those domain names, namely, Verisign, Inc. (.com and .net) and Neustar, Inc. (.biz);
- (xv) award VEL compensatory damages as provided by law;
- (xvi) award VEL statutory damages as provided by law;

- (xvii) award VEL punitive damages as provided by law;
- (xviii) award VEL treble damages as provided by law;
- (xix) award VEL its costs, disbursements, and attorneys' fees incurred in bringing this action; and
- (xx) award VEL such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
January 14, 2008

FRIED, FRANK, HARRIS, SHRIVER &  
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By



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